

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

EXHIBIT 1

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. ) Criminal Action No.:  
 ) 2:14cr76  
DANIEL CHASE HARRIS, )  
 )  
Defendant. )

EXCERPT OF JURY TRIAL PROCEEDINGS

(Direct Examination of Selected Defense Witnesses)

Norfolk, Virginia  
February 27, 2015

BEFORE: THE HONORABLE MARK S. DAVIS  
United States District Judge, and a Jury

Appearances:

OFFICE OF THE UNITED STATES ATTORNEY  
By: ELIZABETH M. YUSI, ESQUIRE  
WILLIAM W. NANCE, ESQUIRE  
Counsel for the United States

SACKS & SACKS  
By: ANDREW M. SACKS, ESQUIRE  
Counsel for Defendant

The Defendant appearing in person.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

WITNESSES ON BEHALF OF THE DEFENDANT:	<u>Page</u>
<b>GORDON ARTHUR CROSS</b>	
Direct Examination by Mr. Sacks.....	3
<b>FITZHUGH LEE</b>	
Direct Examination by Mr. Sacks.....	10
Redirect Examination by Mr. Sacks.....	16

1 (On February 27th before the jury as follows:)

2 \* \* \*

3 GORDON ARTHUR CROSS, having been duly sworn, was  
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. SACKS:

7 Q. Good evening, sir. Would you please give the ladies and  
8 gentlemen of the jury your full name?

9 A. Gordon Arthur Cross.

10 Q. And what is your current occupation?

11 A. I am a captain in the United States Navy. I'm the  
12 commanding officer of Air Test and Evaluation Squadron 9,  
13 commonly referred to as VX-9.

14 Q. And what does that squadron do, just in a word or two?

15 A. Little challenging to sum up, but we are responsible for  
16 operational testing of every new box, or weapon system, that  
17 comes on board our strike fighters, which are the airplanes that  
18 are mostly on the aircraft carriers.

19 Q. What is your current duty station?

20 A. China Lake, California. Naval Air Weapons Station China  
21 Lake, California.

22 Q. How long have you been in the United States Navy?

23 A. 24 and a half years.

24 Q. And without telling us every single command, can you give  
25 us just a brief summary or highlight of the commands that you

1 have been in?

2 A. So flight school, which is kind of all over the place. My  
3 first JO tour was in Lemoore, California, Junior Officer Tour.  
4 Went to test pilot school, Navy test pilot school. Did a test  
5 school in Pax River. Then did my department head tour, your mid  
6 tour, you know, 10 years in the Navy, did that out of Beaufort,  
7 South Carolina. Then I went to Tampa for my joint duty. And I  
8 had command of a squadron out in Japan. And Washington D.C.,  
9 which eventually you have to go to. And now skipper out in  
10 China Lake.

11 Q. And what type of fighters did you command in the squadron  
12 in Japan?

13 A. F-18s.

14 Q. Is that also known as the Hornet?

15 A. Yes.

16 Q. And what years, if you can recall, approximately did you  
17 serve as a commanding officer of that squadron in Japan?

18 A. I served from September 2008 to December of 2009.

19 Q. So about 14 months?

20 A. 15 months, yes.

21 Q. 15 months. Do you know the defendant in this case, Lt.  
22 Daniel Chase?

23 A. Absolutely.

24 Q. And when did you first meet Lt. Harris?

25 A. I took command in September of 2008. And I don't recall

1 exactly, but it was, it was pretty soon after that. I want to  
2 say that I knew Dan for about 10 or 11 months when we were over  
3 in Japan together.

4 Q. What air station was that?

5 A. That was at Naval Air Facility, Atsugi, Japan.

6 Q. How many pilots like Lt. Harris did you supervise at that  
7 time?

8 A. So at the time I had 18 air crew total as the commanding  
9 officer. I probably had, like Dan, about eight junior officers  
10 that were aviators.

11 Q. Now, have you since Lt. Harris, or since you left the  
12 squadron in December of 2009, have you remained generally in  
13 touch with what Lt. Harris's doings have been?

14 A. I have. I've been, I have heard or kept up with his career  
15 as well. And I think I sent him a congratulatory email, and  
16 maybe saw him one time when we were in the squadron, kind of the  
17 junior officers got together out here in Oceana.

18 Q. Now, going back first of all to the time that you  
19 supervised him for the 14 months, how closely did you get to  
20 know him in terms of an individual?

21 A. Well, I supervised him for about eleven months, sir.

22 Q. Eleven months.

23 A. When you are in a Naval fighter squadron, it's a very  
24 intimate group. Kind of has to be. Professionally, every day I  
25 worked with him very, very closely. Certainly on the ship when

1 we pulled into port. Knew his wife well, as I did all the  
2 spouses. You're in Japan, so kind of the village raises the  
3 children; it's a very tight group. Do everything together. So  
4 to quantify it, I would say pretty close. Certainly on a  
5 professional side.

6 Q. All right. Now, what did you observe about the closeness  
7 or not of his relationship with his wife?

8 A. I think it was just like any another young couple. Spent  
9 lots of time together, were very supportive of each other on the  
10 ship. We had email then, which is nice, and phones. So I  
11 didn't see it to be unusual from any of the other relationships  
12 with husband and spouse.

13 Q. Did he appear to be loving towards his wife?

14 A. Yes, sir.

15 Q. Now, with respect to following military orders and  
16 directives, what kind of lieutenant was -- or what kind of  
17 officer was Mr. Harris?

18 A. So my responsibility as skipper is the mentorship and  
19 professional development of my officers in my squadron. I take  
20 it very seriously. So for Dan, it was both becoming a Naval  
21 officer and a combat-experienced fighter pilot. Aviator. And  
22 Dan took it very seriously, and he was very good at it. As I  
23 have well documented in my, you know, my evaluations of him as a  
24 junior officer. He came along well. Everybody who shows up  
25 shows up kind of cocky after finishing flight school and never

1 having gone to the ship at night, and they learn very, very  
2 quickly.

3 Q. Did you observe him to be the kind of aviator who strictly  
4 followed orders?

5 A. Yes.

6 Q. Was he the kind of person who strictly followed what's on  
7 the flight schedule for the business of the day?

8 A. Yes. Flight schedule's an order from the commanding  
9 officer.

10 Q. Was he the kind of person who followed the types of orders  
11 such as --

12 MS. YUSI: Your Honor, I'm going to object to the  
13 leading.

14 BY MR. SACKS:

15 Q. To what extent did he follow orders to do FOD walkdowns,  
16 for example?

17 A. FOD walkdowns are not required, sir. They're on the flight  
18 schedules. Depends on your business of the day. Obviously if  
19 you're briefing or flying late at night you would not be able to  
20 make a early FOD walkdown. But in general, Dan embraced the  
21 complete intent of FOD walkdowns and what was on the flight  
22 schedule.

23 Q. Do you have any knowledge of him ever missing a FOD  
24 walkdown?

25 A. Yes. He missed FOD walkdowns, as did I and everybody else

1 because of the business of the day.

2 Q. If his day required him to fly and he had to take off from  
3 that strip, would you expect him to have done his FOD walkdown?

4 A. I need you to amplify for me, sir.

5 Q. If he were flying on a particular day and had to do a FOD  
6 walkdown to make sure that the area was free of debris that  
7 could be dangerous to him or the plane, would you expect him to  
8 make that walkdown?

9 A. I would, sir.

10 Q. On that day?

11 A. If, if the brief time and the flight time did not overlap  
12 with the designated FOD walkdown time, or other duties that were  
13 deemed more important by an officer of Dan's caliber, he  
14 certainly could have judged that. Absent those things, yes, I  
15 would expect him to be at a FOD walkdown.

16 Q. Did you, during the time that you supervised him, from time  
17 to time hear people speak of his general reputation as a person?

18 A. Yes.

19 Q. And have you continued up to the present to be privy to  
20 those kind of comments from time to time?

21 A. Once I left Japan, not really. I have to be, I have to say  
22 no. And that's somewhat the nature of our business, is when you  
23 switch command to command you become very intimate and close  
24 with the folks that you're currently serving with. And then you  
25 split up. And also, I was the commanding officer. I was, I was



1 close to Dan and I knew him well, but I not prohibited, but it  
2 just is not within good practice and good order and discipline  
3 to be super buddy-buddy with everybody. So yes, I had heard  
4 from other parties, I was aware of what Dan was doing, but we  
5 didn't, we didn't talk a whole lot. So from I'd say after the  
6 first six or seven months after I left the squadron, it was rare  
7 that I heard a whole lot of information.

8 Q. Did you tell us earlier you have kept up with him though  
9 until basically the present?

10 A. Sir I have, I have kept up with his professional career in  
11 terms of where he has gone and what he has done, and, but I have  
12 not -- Dan and I haven't talked, spoken a whole lot or exchanged  
13 a whole lot of emails, but that's not incredibly unusual for a  
14 post skipper and a JO either.

15 Q. During the time you supervised him in 2008 and 2009, do you  
16 know for those 11 months what his reputation was for being a  
17 truthful person?

18 A. Absolutely. That was his reputation.

19 Q. I was going to ask you, what was his reputation?

20 A. He was, he was, he was excellent. Excellent in every  
21 regard with the troops, the loyalty of his troops. I never,  
22 ever was concerned or thought for a moment that Dan would  
23 mislead or lie to me. Our business, again, is too important for  
24 that. So that was absolutely his reputation.

25 Q. Would you believe him under oath?

1 A. I would.

2 Q. And finally this: Were you familiar generally with his  
3 reputation during that time for being someone who follows the  
4 law? A law-abiding person?

5 A. Yes, sir. Absolutely.

6 Q. And what was that reputation?

7 A. Just as you described: As somebody who follows the law.  
8 Part of our business, the law, the procedures, my direction, my  
9 guidance, my intention, all of that.

10 MR. SACKS: All right, sir. Captain, thank you very  
11 much. I know you've come a long way. We appreciate that. If  
12 you would answer the government, please.

13 \* \* \*

14 FITZHUGH LEE, having been duly sworn, was examined and  
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SACKS:

18 Q. Good evening, sir.

19 A. Good evening.

20 Q. Would you please give the ladies and gentlemen of the jury  
21 your full name?

22 A. Fitzhugh Lee.

23 Q. And what is your current occupation, sir?

24 A. I am the Naval Air Force's Total Force Director at the  
25 Naval Air Forces in San Diego, California.

1 Q. Was is your rank?

2 A. Captain.

3 Q. And what, in a word or two, does your current command  
4 involve? What type of work?

5 A. We man, train and equip Naval Air Forces. So that's over  
6 100,000 folks.

7 Q. How long have you been in the United States Navy?

8 A. 21 years and some change.

9 Q. And can you tell us, without going through every single  
10 detail, the highlights of your career leading up to your current  
11 command?

12 A. Okay. Commissioned in 1993. Went to be Assistant Naval  
13 Attache in Paris for a few months and went to flight school,  
14 selected for Hornets. I did a couple of tours over Iraq at  
15 CAW-2 and 151 as a Hornet pilot. Became an instructor after  
16 that. Went to War College. Worked for Senator McCain for a  
17 year. Had command of VFA-27. I think I just went through it  
18 really quickly. And have been at Air Force NAV now for going on  
19 four years.

20 Q. In your current position?

21 A. Hmm-hmm.

22 Q. Do you also have another pursuit or avocation that's not  
23 military?

24 A. I'm highly involved in the community of Coronado, yes.

25 Q. Do you teach at all?

1 A. I do. First Baptist Church, Coronado.

2 Q. How long have you been A Sunday school teacher?

3 A. Well, there for two years.

4 Q. All right. Is that something you've done in the past?

5 A. Hmm-hmm.

6 Q. Now, Captain, I want to ask you, do you know the defendant  
7 in this case, Lt. Dan Harris?

8 A. I sure do.

9 Q. And when did you first meet Lt. Harris roughly?

10 A. It was in 2008. I say roughly, because I can remember the  
11 first day I met him. It was actually in Lemoore. He was going  
12 to VFA-27, I knew I was going to VFA-27. I actually tell you  
13 the room he was walking out of when I met him. And then of  
14 course I joined the squadron in September of 2008.

15 Q. And that's VFA-27?

16 A. Hmm-hmm.

17 Q. And where did you join the squadron? In what place?

18 A. In Japan, at Atsugi.

19 Q. Was this an F-18 fighter squadron?

20 A. It was.

21 Q. Who was the immediate preceding commanding officer of that  
22 squadron?

23 A. Captain Gordo Cross. Gordon Cross.

24 Q. Is he the gentleman who just testified?

25 A. He was.

1 Q. Did he relieve him of his position and come in as the new  
2 CO?

3 A. I did.

4 Q. And was the Lt. Harris already there in Japan when that  
5 happened?

6 A. He was.

7 Q. How long did you serve as the commanding officer of VFA-27  
8 while Lt. Harris was there?

9 A. December of 2009? It was a 15-month tour. So March is  
10 when I, March of 2011 is when I left command. So it was  
11 December when I took over 15 months prior to that.

12 Q. All right.

13 A. So end of 2009, going into all of '10 and then spring of  
14 '11.

15 Q. During that 15-month period, were you his commanding  
16 officer?

17 A. I was.

18 Q. And did you get to know him very well?

19 A. Yes. Like I do all of my junior officers, yeah.

20 Q. Did you have practically daily contact him?

21 A. Oh, yeah. Absolutely.

22 Q. And were you required to write evaluations and analyses of  
23 his behavior and his performance?

24 A. Yes, sir.

25 Q. Now, do you know -- well, first of all, was he the kind of

1 Naval officer who followed strictly the orders given to him?

2 A. Absolutely.

3 Q. And if there were scheduled events on a schedule for flight  
4 or FOD walkdowns or whatever it might be that required his  
5 presence, was he the kind of officer who followed those  
6 directions?

7 A. Absolutely.

8 Q. During the time that you supervised him in Japan did you,  
9 from time to time, hear what others who knew him had to say  
10 about him generally, first in terms of how they viewed him?

11 A. Generally speaking. I think like you would in any social  
12 situation, yes.

13 Q. All right. And did you know generally his reputation  
14 amongst those that you worked and lived for being a truthful  
15 person?

16 A. Oh, sure. Absolutely.

17 Q. And what was that reputation?

18 A. Like every one of my, you know, officers. Absolutely fine  
19 reputation. I mean, you don't tell the truth, you wouldn't be  
20 in my squadron or Captain Cross's squadron. So it almost goes  
21 out without saying in our business. We kind of have to have  
22 trust -- I mean, we're flying in combat together. So we kind of  
23 trust each others with our lives. That is a big deal.

24 Q. And was that his reputation?

25 A. Sure.

1 THE WITNESS: Sure.

2 \* \* \*

3 REDIRECT EXAMINATION

4 BY MR. SACKS:

5 Q. In your opinion, Captain, is Mr. Harris the kind of person  
6 that would engage in that conduct?

7 A. Not the person I knew.

8 MR. SACKS: That's all I have, sir. Thank you.

9 (Excerpt concluded.)

10 \* \* \*

11 - - -

12 CERTIFICATION

13  
14 *I certify that the foregoing is a true and complete*  
15 *excerpt of the transcript of proceedings held in the*  
16 *above-entitled matter.*

17 Paul L. McManus,

18 Official Court Reporter

Digitally signed by Paul L. McManus, Official Court  
Reporter  
DN: cn=Paul L. McManus, Official Court Reporter,  
c=US, email=pmcmanusocr@verizon.net  
Date: 2015.03.01 14:43:09 -05'00'

19 Paul L. McManus, RMR, FCRR

20  
21 Date